

(21)
COPY

00100429 PM 4:04
00100429 PM 4:04

DEPUTY
DEPUTY

dictd
TECH CENTER 1600/2900
01 AUG 24 PM 3:22

1 Charles E. Lipsey (pro hac vice)
2 FINNEGAN, HENDERSON, FARABOW,
3 GARRETT & DUNNER, L.L.P.
4 1300 I Street, N.W., Suite 700
5 Washington, D.C. 20005-3315
6 Telephone: (202) 408-4000
7 Facsimile: (202) 408-4400

8 Thomas W. Banks (SBN 195006)
9 FINNEGAN, HENDERSON, FARABOW,
10 GARRETT & DUNNER, L.L.P.
11 700 Hansen Way
12 Palo Alto, California 94304
13 Telephone: (650) 849-6600
14 Facsimile: (650) 849-6666

15 WRIGHT & L'ESTRANGE
16 John H. L'Estrange, Jr. (SBN 49594)
17 Imperial Bank Tower, Suite 1550
18 701 "B" Street
19 San Diego, California 92101-8103
20 Telephone: (619) 231-4844

21 Attorneys for Defendant VYSIS, INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

22 GEN-PROBE, INCORPORATED,

Plaintiff,

v.

VYSIS, INC.,

Defendant.

CASE NO. 99CV 2668H (AJB)

NOTICE OF MOTION AND MOTION
BY DEFENDANT VYSIS, INC. FOR
ENTRY OF FINAL JUDGMENT
UNDER RULE 54(b)

Date: July 30, 2001
Time: 10:30 am
Dept.: Courtroom 1

21 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

22 PLEASE TAKE NOTICE that on July 30, 2001, or as soon thereafter as this matter may be
23 heard before the Honorable Marilyn Huff in Courtroom 1 of the above entitled court located at the
24 United States Courthouse, 940 Front Street, San Diego, California, 92101, defendant Vysis, Inc.
25 ("Vysis") will and hereby does move the Court to enter final judgment against it on Counts I and III

1 of plaintiff Gen-Probe, Incorporated's Second Amended Complaint pursuant to Rule 54(b) of the
2 Federal Rules of Civil Procedure.

3 This Motion is based on this Notice of Motion and Motion, the accompanying Memorandum
4 of Points and Authorities, the Declaration of Thomas W. Banks, and on such other and further oral
5 and documentary evidence as the Court may consider at the time of hearing.
6

7 Dated: June 29, 2001

WRIGHT & L'ESTRANGE

8
9 By: *John H. L'Estrange Jr.*
10 John H. L'Estrange, Jr.
11 Imperial Bank Tower, Suite 1550
701 "B" Street
San Diego, California 92101-8103
12

13 FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
Thomas W. Banks
700 Hansen Way
Palo Alto, California 94304
14

15 Charles E. Lipsey
1300 I Street, N.W., Suite 700
Washington, D.C. 20005-3315
16
17
18
19
20
21
22
23
24
25
26
27
28

COPY

1 FINNEGAN, HENDERSON, FARABOW,
2 GARRETT & DUNNER, L.L.P.
3 Charles E. Lipsey (pro hac vice)
4 1300 I Street, N.W., Suite 700
5 Washington, D.C. 20005-3315
6 Telephone: (202) 408-4000
7 Facsimile: (202) 408-4400

8 Thomas W. Banks (SBN 195006)
9 John W. Burns (SBN 190031)
10 700 Hansen Way
11 Palo Alto, CA 94304
12 Telephone: (650) 849-6600
13 Facsimile: (650) 849-6666

14 WRIGHT & L'ESTRANGE
15 John H. L'Estrange, Jr. (SBN 49594)
16 Joseph T. Ergastolo (SBN 137807)
17 701 "B" Street, Suite 1550
18 San Diego, California 92101-8103
19 Telephone: (619) 231-4844
20 Facsimile: (619) 231-6710

21 Attorneys for Defendant Vysis, Inc.

22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

29 GEN-PROBE, INCORPORATED,) Case No.: 99CV 2668H (AJB)
30 Plaintiff,)
31 v.)
32 VYSIS, INC.,)
33 Defendant.)

**CERTIFICATE OF PERSONAL
SERVICE**

34 I, the undersigned, declare: I am over the age of eighteen years and not a party to the cause;
35 I am employed in, or am a resident of, the County of San Diego, California, and my business address
36 is: 4665 Park Blvd., San Diego, California 92116.

37 On June 29, 2001, I served the following document(s):

38 ///
39 ///

1. NOTICE OF MOTION AND MOTION BY DEFENDANT VYSIS, INC. FOR ENTRY
 2. OF FINAL JUDGEMENT UNDER RULE 54(b)
 3. 2. MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF VYSIS'
 4. MOTION FOR ENTRY OF JUDGMENT UNDER RULE 54(b)
 5. 3. DECLARATION OF THOMAS W. BANKS IN SUPPORT OF VYSIS' MOTION FOR
 6. ENTRY OF FINAL JUDGMENT UNDER RULE 54(b)

7 by personally serving copies of said documents upon the following individuals at the following
8 addresses or by leaving copies at the office listed below, in an envelope or package clearly labeled
9 to identify the person being served, with a receptionist or, with a person having charge thereof:

10 Patrick Maloney R. William Bowen, Jr.
Stephen P. Swinton GEN-PROBE INCORPORATED
11 COOLEY GODWARD, LLP 10210 Genetic Center Drive
4365 Executive Drive, #1100 San Diego, CA 92121-4362
12 San Diego, CA 92121-2128

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 29, 2001 in San Diego, California.

DIVERSIFIED LEGAL SERVICES, INC.

By